

Libby Community Advisory Group

Meeting Summary

August 10, 2000

Introductions

Gerald Mueller and Libby Community Advisory Group (CAG) members present introduced themselves. A list of the members in attendance is attached below as Appendix 1.

Agenda

Mr. Mueller reviewed an agenda for this meeting including the following topics:

- Presentation by EPA Office of Inspector General
- EPA Report
- Unite and Solve Plan
- 24 Month Issue Topics
- Congressional \$8 Million Appropriation to the City of Libby
- Next Steps - Meeting Date and Agenda

EPA Office of Inspector General

Tina Lovingood, a representative of the EPA Office of the Inspector General (OIG), addressed the CAG. Ms. Lovingood stated that OIG conducts audits and investigations of EPA and its contractors to prevent fraud and abuse. At the request of Congress and EPA, the OIG is investigating who in EPA knew what and when regarding the asbestos problem at Libby, and what EPA might have done to prevent the problem. Ms. Lovingood and other OIG personnel will be conducting interviews in Libby on Tuesday and Wednesday, August 15 and 16. She invited CAG and audience members to sign up for an interview. OIG is interested in evidence and documentation regarding what and when EPA knew about asbestos in Libby. Ms. Lovingood said that a preliminary report may be finished by the end of September.

CAG Member Question - Does the OIG report to the Department of Justice (DOJ) or EPA?

Answer - OIG is an independent agency within EPA, not DOJ. OIG receives a budget appropriation from the Congress separate from the rest of EPA.

CAG Member Question - Will your report on Libby be turned over to DOJ?

Answer - Findings that relate to EPA will be submitted to EPA. If we find something about another federal agency and/or evidence of criminal intent, we might work with DOJ.

CAG Member Question - Will you look at other federal agencies such as OSHA, NIOSH, and the State of Montana?

Answer - Yes.

CAG Member Question - Since you work for EPA, how do we know that your investigation will be independent and unbiased?

Answer - Our mission and function depends on our ability to be independent, which is why we receive a separate Congressional appropriation. We also report to Congress as well as EPA.

CAG Member Question - Will the information you produce in your investigation be public?

Answer - Our final report will be public.

EPA Report

Wendy Thomi

Wendy Thomi reminded the CAG about the upcoming conference on asbestos and public health intended for members of the Libby community scheduled for Thursday through Saturday, September 21-23, 2000. A committee to plan the conference including Gayla Benefield, LeRoy Thom, and Ron Anderson, as well as representatives of EPA, ATSDR, NIOSH, and OSHA, have been meeting weekly to plan the conference. In addition to Thursday and Friday, an all day session is scheduled for Saturday to ensure that the working people of Libby have an opportunity to attend. Ten of the conference topics were listed in the July 27 meeting summary. Other topics may also be covered, and the complete conference agenda will be published in the paper.

Duc Nguyen

Duc Nguyen reported for Paul Peronard who remained in Denver to work with EPA attorneys and W.R. Grace representative on access issues. EPA continues to seek access from W.R. Grace to the mine to oversee the disposal of asbestos-contaminated soils and materials at the mine and to the former Kootenai Development Corporation properties recently reacquired by W.R. Grace.

Status of the Cleanups

Export Plant Site - Agreement has been reached about the list of items to be thrown away. Cleanup will begin tomorrow. Air monitors will be in place to ensure that contaminated materials are not leaving the site. The new Mill Work West building should be ready on September 1, and moving to the new site should begin on August 25.

Screening Plant Site - Demolition of the green houses has been completed, and excavation of contaminated soils has begun. These soils will be stored in a long shed until EPA gains access to the mine for disposal. After receiving hazardous waste training, an archeologist should begin the assessment of the site required by the Antiquities Act.

Hazardous Waste Training

Forty people, including MARCOR personnel, fire fighters, and the archeologist have signed up for the training session on August 22-25.

CAG Member Question - Will there be a charge for this training?

Answer - According to EPA regulations, this training cannot be provided for free. We are working, however, to minimize the cost to local Libby people.

CAG Member Question - Is enrollment in the training limited to a specific number?

Answer - Yes. We have only one instructor, and forty is the maximum that one instructor can handle. If there is sufficient demand, we will repeat the training on other dates.

Unite and Solve Plan

Using the handouts attached as Appendices 2 and 3, Gayla Benefield presented a plan she called the Unite and Solve Plan. Ms. Benefield argued that Libby must be unified to solve its asbestos

problem and must devise a plan to describe what we as a community need and want done about it. Once we are unified behind such a plan, we can go to W.R. Grace. Ms. Benefield listed the advantages and disadvantages to the community, courts, politics, and W.R. Grace of all interests, both public and private, joining together to achieve a solution that benefits all compared to each interest pushing its own battle plan. The advantages and disadvantages are listed in Appendix 2. She then outlined the Unite and Solve Plan which is explained in Appendix 3. She also recommended that the CAG take input from the public on the Plan at a special meeting. Finally, she said that W.R. Grace should be given the opportunity to come to the table to discuss the Plan.

CAG Member Comment - A core of us are working to get a solution for the entire community. I'm prepared to sign a resolution now supporting the Plan.

CAG Member Question - Who would implement the Plan's four goals? Would EPA be assigned the lead role in cleaning up contamination and the CAG's Medical Trust Sub-Committee in medical monitoring and care?

Answer - Attorney Alan McGarvey of Kalispell stated that if CAG and the community decide on the plan goals, e.g. clean up all contamination, medical monitoring and care, compensation for victims, and restore business vitality, the attorneys can then help implement them by taking steps such as amending lawsuits and coordinating lawsuits with local legislation, and creating a court-supervised trust to receive and distribute funds.

CAG Member Question - Won't W.R. Grace oppose a comprehensive solution that creates precedents for areas outside Libby such as attic cleanups?

Answer - W.R. Grace stock price has been dropping steadily and the company needs a comprehensive solution as much as the Libby community. Without a comprehensive solution, W.R. Grace will face a series of lawsuits much like the tobacco companies.

CAG Member Question - Will W.R. Grace come to the table if all interests, e.g. the eight entities listed in part B of the Plan, aren't in agreement on a comprehensive solution?

Answer - W.R. Grace won't come to the table without a comprehensive solution involving all interests.

CAG Member Question - What does the reference to Sealed Air in Part D (4) of the Plan mean?

Answer - W.R. Grace has shifted corporate assets from the parent corporation to a subsidiary, Sealed Air. The attorneys can prevent W.R. Grace from sheltering or dissipating its assets by adding ("joining") subsidiaries such as Sealed Air to the lawsuits.

CAG Member Question - Are the attorneys advising their clients not to sign up for the W.R. Grace medical plan?

Answer - The W.R. Grace medical plan is not adequate. The local community should tell the company what it wants regarding medical treatment, and the community through some entity like St. John's Hospital should remain in control of the plan rather than an insurance company hired by W.R. Grace.

CAG Member Question - What is the time frame for bringing the forces together and achieving a solution?

Answer - We don't know for certain, but a period of months rather than years is possible.

Mike Donovan, an attorney from San Francisco who addressed the CAG at its July 12, 2000 meeting, then spoke to the CAG. He stated that he has spent much of the last two weeks speaking with state and local officials. Mr. Donovan reminded the group that its power stems from its willingness and ability to express the will of the community. He said that while federal and state agencies are working on the cleanup, no agency is securing treatment for the public health impacts. He also said that because individuals have given power to their government, government has authority beyond that of individuals to make and enforce laws, and particularly to protect the public health and welfare and to abate nuisances so long as public remedies are even handed and fair. Courts can compel someone to take some action regardless of the cost of doing so. The best way to encourage local government to act is by giving it discrete and definable tasks.

CAG Member Question - How do you combine a comprehensive solution with private law suits?

Answer - All interests must be addressed. If a private party's interests aren't satisfied in the "comprehensive" solution, then that party will not be satisfied and won't be a part of the solution.

CAG Member Question - The first of the Plan's four goals is clean up all contamination. Does this mean clean up of private as well public properties?

Answer - All means all. Contamination of both public and private property and resources must be addressed.

24 Month Issue Topics CAG Discussion of the Plan

The CAG facilitator suggested combining a discussion of the proposed Plan goals with the topic labeled 24 month issues, i.e. the topics that the community wants to see addressed within 24 months. Mr. Mueller noted that the four Plan goals appear to be essentially the same as the four areas of concern for the CAG identified by Rick Palagi at the last CAG meeting. After a discussion, the CAG agreed to the four Plan goals with some modifications to the first three. The CAG also agreed that the fourth goal, restoring business vitality, includes restoring Libby's national image as a healthy and attractive community. The reformulated goal statement is:

- A. Community leaders agree that a real solution for Libby must include:
 - 1. Clean up all contamination and long-term monitoring;
 - 2. Medical monitoring, care, and research;
 - 3. Compensation for victims now and in the future; and
 - 4. Restore business vitality.

The CAG also agreed that a public, community-wide meeting on the Plan should not be held now. Instead CAG members will be expected to talk with any constituency in the community that they represent and make themselves available for questions and comments from community members regarding the Plan, and in particular the four Plan goals listed above.

CAG Member Question - Would the Plan be a model for other areas facing similar cleanups?

Answer - Yes.

Audience Question - Asbestos research is incomplete. Some cancers are associated but not conclusively linked with asbestos. Will these diseases which some label as speculative in terms of their link to cancer be addressed in the Plan's second goal, medical monitoring, care, and

research?

Answer - The Plan goal is meant to include whatever medical care, monitoring, and research the community decides is needed.

CAG Member Comment - The CAG should be reformulated from an advisory group to an action group. It needs a local chair rather than an outside facilitator. It also needs to meet more often than once every two weeks.

Audience Comment - The CAG is working well. Don't change the process.

CAG Member Comment - The Libby schools are not listed in among the eight entities that must be satisfied for a real solution. The schools have exhausted the funds provided by W.R. Grace, and now funding is declining. The schools need money now, not several months from now.

Response - Perhaps the schools should be added in the Plan part B to the list of eight.

CAG Member Comment - If County government is going to lead in addressing the Plan and its goals, the CAG and the community need to be behind us.

CAG Member Comment - If a public meeting is held to solicit public comments on and support for the Plan, the meeting should be a CAG rather than an EPA meeting.

Congressional \$8 Million Appropriation to the City of Libby

Time ran out before this topic could be discussed. Mayor Berget stated that the \$8 million appropriation had been addressed at Monday night's City Council meeting, but he would discuss this topic with anyone wishing to after the CAG meeting.

Next Meeting

The next meeting is scheduled for Thursday, August 24, 2000 from 7 to 9 p.m. in the Ponderosa Room of the Libby City Hall. CAG members should come prepared to take action on the Unite and Solve Plan four goals and how to go about implementing them..

Appendix 1

CAG Member Attendance List

August 10, 2000

Members	Group/Organization Represented
Don Wilkins	Lumber & Sawmill Workers
Norita Skramstad	Asbestos Victims
Bob Dedrick	Asbestos Victim
Gayla Benefield	LCAVRO
Duc Nguyen	EPA - On Site Coordinator
John Constan	Montana Department of Environmental Quality
K.W. Maki	Libby Schools
Mayor Tony Berget	City of Libby
Wilbur Wilson	County Council on Aging
David F. Latham	The Montanian
Wendy Thomi	EPA Community Involvement
Brad Black	Lincoln County Health Officer
Commissioner John Konzen	Lincoln County
Robert H. Foote	Libby Ministerial Association
Ron Anderson	Lincoln County Environmental Health
Bob Tunis	Lincoln County Economic Development Corporation
Linda Beaulieu	Libby Chamber of Commerce
Commissioner Rita Windom	Lincoln County
Sandy Wagner	Libby Resident
Grayson Casey	Kootenai Realty
Kerry Beasley	St. Johns Lutheran Hospital
Guest	
Tina Lovingood	Office of Inspector General, EPA

Appendix 2

Unite & Solve

All interests - private and public, business, hospital, etc. - join together to achieve a solution that benefits all.

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COMMUNITY

Cooperation and shared success increases the power and energy of the community.

COURTS

Joint requests for relief allow the Court to act quickly and to provide comprehensive relief for all.

POLITICS

A united community gives political leaders the power to get the job done, and gives Libby the right to demand results.

W.R. GRACE

A united plan gives Grace the opportunity to get a comprehensive solution, making settlement more likely.

Divide & Fight

Each interest group pushes its own battle plan. Efforts duplicate and sometimes conflict

Frustration and infighting steals the energy and power of the community.

All legal and legislative efforts (such as an ordinance) will be challenged in court. Separate proceedings means Libby must wait for the last Court ruling.

State and U.S. governments are less likely to help when community is divided.

Grace has little reason to settle with one group since it will have to face same issues with other groups. Company can exploit division and pit one group against another.

Appendix 3

UNITE AND SOLVE PLAN:

1. Community leaders agree that a real solution for Libby must include:
 - A. Clean up all contamination
 - B. Medical monitoring and care
 - C. Compensation for victims
 - D. Restore business vitality
2. Community leaders agree that a real solution for Libby must include:
 - A. City
 2. County
 3. Hospital
 4. Business community
 5. Asbestos victims
 6. Fed agencies
 7. Montana State agencies
 8. W.R.Grace
3. Special meeting is called for all parties to forge a real solution for Libby.
4. Community leaders agree to implement a coordinated "battle plan" to encourage Grace to join in a real solution:
 - a. Existing lawsuits are amended and/or combined to give Court power to approve a comprehensive solution by settlement or order.
 - b. Local legislation is crafted which closes loopholes. Funding is sought through political channels.
 - c. Political pressure is applied to free up state and federal assistance and to prevent "bailouts" for Grace.
 - d. Grace assets are made secure by joining Sealed Air, and by court orders preventing spinoffs and other asset dissipation.
 - e. Identify and fully quantify contamination, medical, compensation and other needs and design the solutions that fully meet these needs.
 - f. Create a Court-supervised TRUST to receive and distribute funds.
 - a. Court supervision assures complete relief for all interests. (no sweetheart deals)
 - b. Locally administered by Libby community.
 - c. Receives funds from grants, settlements and/or judgments.
 - d. Tax advantage (468b) to Grace.